

Message Text

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TO AMCONSUL RIO DE JANEIRO PRIORITY

C O N F I D E N T I A L STATE 188414

FOLLOWING REPEAT SECSTATE 188414, SENT BRASILIA AUG 8, 1975:

QUOTE C O N F I D E N T I A L STATE 188414

E.O. 11652: GDS

TAGS: TECH BR

SUBJECT: US URANIUM ENRICHMENT DEVELOPMENT

REF: (A) BRASILIA 5809, (B) BRASILIA 5763, (C) STATE
151501

1. USG APPRECIATES BRAZILIAN ANXIETY REFLECTED IN REF
A AND B REGARDING STATUS OF CONDITIONAL ENRICHMENT CON-
TRACTS AND MODIFICATION OF BILATERAL AGREEMENT, AND
DESIRES TO REASSURE GOB THAT WE WISH TO RESOLVE THEIR
CONCERNS AS SOON AS POSSIBLE. EMBASSY SHOULD DRAW ON
FOLLOWING INFORMATION IN RESPONDING TO GOB, TO EXTENT
EMBASSY CONSIDERS DESIRABLE PENDING "COORDINATED RESPONSE"
OF GOB REFERRED TO IN PARAGRAPH 2 OF REF A.

2. WITH RESPECT TO CONVERSION OF CONDITIONAL CONTRACTS,
DEPARTMENT, ERDA, AND OTHER CONCERNED AGENCIES HAVE
DEVOTED EXTENSIVE CONSIDERATION TO QUESTION OF DISPOSI-
TION OF ENRICHMENT CAPACITY WHICH MIGHT BE FREED FROM
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COMMITMENT AS RESULT OF CONTRACT CANCELLATION DURING
"OPEN SEASON" SCHEDULED TO END AUGUST 18. THIS CONSIDERA-
TION HAS TAKEN INTO ACCOUNT NOT ONLY BRAZILIAN INQUIRY
BUT THE GENERAL QUESTION OF WHETHER CAPACITY SO FREED

SHOULD BE USED TO CONVERT SOME FOREIGN CONDITIONAL CON-

TRACTS TO FIRM CONTRACTS. WHILE FINAL DECISION ON THIS POSSIBILITY HAS NOT BEEN MADE, AND WILL DEPEND IN SOME DEGREE ON RESULTS OF "OPEN SEASON" WHICH IS STILL IN PROGRESS, IT NOW APPEARS QUITE UNLIKELY THAT FREED CAPACITY WOULD BE USED FOR CONVERSION OF CONDITIONAL CONTRACTS. FACTORS LEADING TO THIS TENTATIVE CONCLUSION ARE AS FOLLOWS:

A. NUMBER OF CANCELLATIONS DURING "OPEN SEASON" ARE NOT EXPECTED TO BE LARGE. THEREFORE, CANCELLATIONS DO NOT REPRESENT GENERALLY APPLICABLE SOLUTION TO CONVERSION OF CONDITIONAL CONTRACTS. TWO BRAZILIAN CONTRACTS, WHICH ARE FIFTH AND SIXTH IN CHRONOLOGICAL ORDER OF PRIORITY, AFTER TWO KOREAN, ONE JAPANESE, AND ONE GREEK CONTRACT (NOT THIRD IN LINE, AS STATED IN REF A) MIGHT OR MIGHT NOT BE COVERED BY CANCELLATIONS RECEIVED.

B. SINCE CONCLUSION OF CONDITIONAL CONTRACTS LAST YEAR, THE ENRICHMENT SERVICES SITUATION HAS CHANGED IN SEVERAL IMPORTANT RESPECTS. ON THE NEGATIVE SIDE THE U.S. REGULATORY DECISION ON PLUTONIUM RECYCLE HAS BEEN FURTHER DELAYED BY NUCLEAR REGULATORY COMMISSION AND PROJECTIONS OF PROBABLE EXTENT OF ADOPTION OF PLUTONIUM RECYCLE BY BOTH DOMESTIC AND FOREIGN UTILITIES HAVE BEEN SHARPLY REDUCED, BOTH AS A RESULT OF DELAY IN REGULATORY DECISION AND CONSIDERATIONS OF RECYCLE ECONOMICS. AS A RESULT, CURRENT U.S. ENRICHMENT COMMITMENTS CAN BE MET FROM EXISTING FACILITIES ONLY BY USE OF DIFFUSION PLANT TAILS ASSAY WHICH IS FAR HIGHER THAN OPTIMUM, AND WHICH INVOLVES NATURAL URANIUM FEED REQUIREMENTS AT THE VERY LIMIT OF THE APPARENT CAPACITY OF URANIUM MINING INDUSTRY. THUS, ALLOCATION OF ANY CAPACITY RECOVERED BY CANCELLATION OF EXISTING CONTRACTS TO REDUCTION OF TAILS ASSAY AND FEED REQUIREMENTS WILL BENEFIT ALL REMAINING CUSTOMERS (INCLUDING BRAZIL, WHICH HOLDS FIRM CONFIDENTIAL

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CONTRACT FOR ANGRA 1) IN SIGNIFICANT DEGREE, BY REDUCING THE AMOUNT OF COSTLY FEED REQUIRED TO PRODUCE A GIVEN QUANTITY OF ENRICHED URANIUM. THIS EFFECT IS A VERY PRONOUNCED ONE WHEN THE DIFFUSION PLANT IS ALREADY OPERATING AT A HIGH TAILS ASSAY (OVER-FEEDING).

C. MOST IMPORTANTLY, AS REPORTED IN REF (C), PRESIDENTIAL DECISION ON ENRICHMENT CAPACITY EXPANSION ESTABLISHES A BASIS FOR REOPENING OF CONTRACTING AND PROVIDES MECHANISM FOR FULFILLING ALL CONDITIONAL CONTRACTS. IN THIS REGARD, WE WISH TO REEMPHASIZE UNDERLYING PRESIDENTIAL ASSURANCE AT THE TIME CONDITIONAL CONTRACTS WERE FIRST ANNOUNCED THAT THESE WOULD, IN ANY

EVENT, BE MET FROM U.S. ENRICHMENT SOURCES. THIS ASSUR-

ANCE WAS SPECIFICALLY EXTENDED TO ORDERS PLACED WITH PRIVATE ENRICHERS BY PRESIDENTIAL STATEMENT ON ENRICHMENT EXPANSION. (STATE A-455, PAGE 5).

D. IT IS TO BE STRESSED, AS ABOVE BACKGROUND INDICATES, THAT TENTATIVE JUDGEMENT THAT CAPACITY FREED BY CANCELLATION OF FIRM CONTRACTS CANNOT BE APPLIED TO CONVERSION OF CONDITIONAL CONTRACTS IS AN ACROSS-THE-BOARD CONCLUSION BASED ON TECHNICAL GROUNDS, AND IS NOT, REPEAT, NOT LIMITED IN ANY WAY TO CONDITIONAL CONTRACTS WITH BRAZIL. WHILE WE CANNOT OFFER ENCOURAGEMENT ON CONVERSION OF EXISTING CONTRACTS BY THIS MEANS, WE ARE PREPARED TO ASSURE BRAZIL THAT ASSIGNMENTS OF FIRM CONTRACTS FROM U.S. UTILITIES FOR FOREIGNERS ARE BEING APPROVED, SUBJECT TO CONTRACTUAL GUIDELINES, PREVIOUSLY ANNOUNCED. DELIVERY, OF COURSE, WOULD BE SUBJECT TO THE CONCLUSION OF NEW AGREEMENT (SEE PARA 7).

WE RECOGNIZE THAT BRAZILIANS HAVE EXPRESSED RELUCTANCE TO GO ASSIGNMENT ROUTE AND WE LEAVE TO THE EMBASSY'S DISCRETION WHETHER ANOTHER SUGGESTION TO THIS EFFECT IS DESIRABLE. WE WILL ALSO BE FORWARDING TO THE EMBASSY SOONEST, A LIST OF U.S. UTILITIES HOLDING FIRM CONTRACTS. THIS HAS BEEN OFFERED TO GOB SEVERAL TIMES WITHOUT AN OFFER BEING TAKEN UP. THE EMBASSY AT ITS DISCRETION, MAY OFFER OR TRANSMIT A LIST TO GOB RATHER THAN AWAITING CONFIDENTIAL

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ITS REQUEST.

E. WE ALSO APPRECIATE THAT BRAZILIANS MAY SEE INCONSISTENCY IN OUR WILLINGNESS TO APPROVE DIRECT TRANSFER OF CONTRACTUAL COMMITMENT, WHILE BEING UNABLE AT PRESENT TO TRANSFER CAPACITY FREED-UP BY "OPEN SEASON". THE BASIC DISTINCTION IS THAT, IN VIEW OF OUR DESIRE TO ESTABLISH THE PRINCIPLE OF TRANSFERABILITY OF FIRM COMMITMENTS AMONG QUALIFIED BUYERS, WE DO NOT WISH TO INTERFERE WITH PRIVATE TRANSFER DEALS, WHICH WE EXPECT TO OCCUR IN SUFFICIENTLY LIMITED NUMBERS FOR THE TIME BEING SO AS NOT TO SERIOUSLY AFFECT ENRICHMENT PLANT OPERATING CONDITIONS. FOR INFORMATION OF GOB, DIRECT TRANSFERS HAVE BEEN APPROVED FOR 5 CONTRACTS INVOLVING JAPAN, FRG, AND THE NETHERLANDS AND A FEW OTHERS ARE IN NEGOTIATION.

F. AS FURTHER ELEMENT IN ASSURING UTILITY OF BRAZIL'S CONDITIONAL CONTRACTS, WE SUGGEST THAT PHRASE IN ARTICLE II.1.B OF THE TWO CONTRACTS WHICH READS: "ON OR BEFORE SEPTEMBER 30, 1975" BE CHANGED TO READ, "ON OR BEFORE JUNE 30, 1976". ERDA PREPARED TO SUBMIT TO FURNAS NECESSARY LETTER AMENDMENTS TO CONTRACTS. AS

FURNAS WILL RECOGNIZE, PROPOSED DATE WOULD COINCIDE WITH

RECENTLY AGREED DATES IN CONTRACT ARTICLE XIII RELATIVE TO PLUTONIUM RECYCLE, AND THUS ENSURES THAT CONDITIONAL CONTRACT MAINTAINS ITS VALIDITY FOR A MORE EXTENDED PERIOD WHICH MIGHT BE NECESSARY FOR THE DEVELOPMENT OF A FIRM ARRANGEMENT.

G. WE AGREE WITH THE CONCLUSION OF REF A THAT THE KEY ISSUE IS BILATERAL AGREEMENT, NOT CONDITIONAL FUEL CONTRACTS. WE RECOGNIZE THAT A DELAY IN PROVIDING A NEW DRAFT AGREEMENT TO GOB MAY BE LEADING THEM TO QUESTION U.S. INTENTIONS IN EXPANDING NUCLEAR COOPERATION WITH BRAZIL. FACTS, AS EXPLAINED TO BRAZILIAN EMBASSY REPRESENTATIVES IN THE PAST, ARE THAT DEVELOPMENT OF A NEW BRAZILIAN DRAFT WAS CAUGHT UP IN GENERAL REVIEW OF BILATERAL NUCLEAR COOPERATION IN LIGHT OF HEIGHTENED NON-PROLIFERATION CONCERNS. IT REMAINS OUR FIRM INTENTION TO COMPLETE DEVELOPMENT OF POSITION WHICH CONFIDENTIAL

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WILL ENABLE US TO RESUME NEGOTIATIONS WITH BRAZIL IN THE VERY NEAR FUTURE. HOWEVER, WHILE WE ARE OF COURSE PREPARED TO TALK TO BRAZILIAN REPRESENTATIVES AT ANY TIME, SCHEDULING OF DEFINITIVE DISCUSSIONS SHOULD AWAIT DEVELOPMENT OF U.S. POSITION. FYI AS DISCUSSED WITH AMBASSADOR CRIMMINS, PAPER PROPOSING NEGOTIATING POSITION FOR RESUMPTION OF DISCUSSION WITH BRAZIL IS ABOUT TO BE CLEARED. WHILE THERE IS NO DOUBT THAT FRG/BRAZIL ARRANGEMENT IS A SERIOUS COMPLICATING FACTOR, WE CONTINUE TO BELIEVE AN EXTENSION OF NUCLEAR COOPERATION WITH BRAZIL IS DESIRABLE AND FEASIBLE. END FYIM KISSINGER UNQUOTE. KISSINGER

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